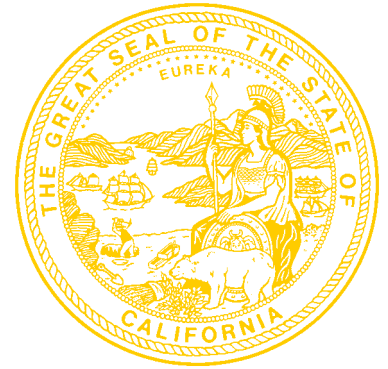


FPPC *Bulletin*



December 2003

Fair Political Practices Commission

Volume 29, No. 4

IN THIS ISSUE:

<i>New campaign manuals</i>	1
<i>2004 meeting dates</i>	2
<i>Proposition 34 Q & A</i>	3
<i>What's new on the web</i>	6
<i>Segmentation process</i>	7
<i>Enforcement summaries</i>	8
<i>Litigation report</i>	13
<i>Clerks' Corner — SEIs</i>	16
<i>Legislative Update</i>	21
<i>Advice summaries</i>	23
<i>Lobbyist ethics course</i>	35

Toll-free Advice Line: 1-866-ASK-FPPC

Public officials, local government filing officers, candidates, lobbyists and others with obligations under the Political Reform Act are encouraged to call toll-free for advice on issues including campaign contributions and expenditures, lobbying and conflicts of interest. *FPPC staff members answer thousands of calls for telephone advice each month.*

New Manuals Will Assist State and Local Candidates

FPPC staff members plan to present two new campaign disclosure manuals for approval at the January 2004 meeting of the Fair Political Practices Commission.

The state and local candidate manuals, developed as part of a major FPPC staff project, will be made available in final form on the FPPC web site — www.fppc.ca.gov — soon after Commission approval.

Because many of Proposition 34's provisions affect state candidates only, FPPC staff developed two separate manuals:

- **Manual 1** is for state candidates, their controlled committees, and primarily formed committees for state candidates
- **Manual 2** is for local candidates, superior court judges, their controlled committees, and primarily formed committees for local candidates

Both manuals are comprehensive in scope and designed to assist candidates for public office in meeting the obligations set by the Political Reform Act. Among the subjects discussed in the manuals are candidates' and committees' recordkeeping requirements, definitions important to campaigns, reporting obligations, and restrictions and prohibitions.

Once the Commission has given final approval to the publications, these manuals will replace the current FPPC "Information Manual A," "Information Manual B," and the 2003 addendum. Candidates and other interested persons will be able to download, print and distribute the manuals from the web once they are posted.

(Continued on page 2)

**California
Fair Political
Practices Commission**

Commissioners

Liane Randolph, Chair
Philip Blair
Sheridan Downey III
Pamela Karlan
Thomas S. Knox

Commission Meetings

Meetings are generally scheduled monthly in the Commission Hearing Room, 428 J Street, 8th Floor, Sacramento. Please contact the Commission or check the FPPC web site, <http://www.fppc.ca.gov>, to confirm meeting dates.

Pursuant to Section 11125 of the Bagley-Keene Open Meeting Act, the FPPC is required to give notice of its meetings ten (10) days in advance of the meeting. In order to allow time for inclusion in the meeting agenda and reproduction, all Stipulation, Decision and Order materials must be received by the FPPC no later than three (3) business days prior to the ten day notice date.

The Commission meeting agenda and supporting documents are available free of charge on the Commission's web site at <http://www.fppc.ca.gov>. Additionally, past and future agendas are posted on the web site.

...Draft manuals available

(Continued from page 1)

The manuals are currently posted in draft form on the web site. To see the draft manuals, go to www.fppc.ca.gov and click on the link in the "What's New" column on the right side of the home page.

FPPC staff members are continuing their work on additional new manuals and addendums.

An interested persons meeting on the new state and local candidate manuals was held on November 19 and resulted in a number of comments.

Future Meeting Dates

The Fair Political Practices Commission is currently planning to meet on the following dates during calendar year 2004:

Wednesday, January 14
Tuesday, February 10
Monday, March 15
Thursday, April 8
Thursday, May 13
Thursday, June 10

No July meeting
Thursday, August 5
Thursday, September 2
Thursday, October 7
Thursday, November 4
Thursday, December 2

Meetings generally begin at 9:30 a.m. in the FPPC's 8th floor hearing room at 428 J Street, Sacramento, but check the FPPC web site regularly as dates and times can change.

Interested Persons Meeting

An interested persons meeting will be held on January 13, 2004, to seek public participation in a study of proposals to merge Government Code section 1090 and other statutory and Common Law conflict of interest provisions into the Political Reform Act. Also scheduled for that day is an interested persons meeting on proposals to amend the conflict of interest/disqualification regulations relative to general plan decisions. Check the What's New section of our web site at www.fppc.ca.gov, for the posting of an agenda and the final details and times of the meetings.

The FPPC *Bulletin* is published by the Fair Political Practices Commission

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The *Bulletin* is published quarterly on the FPPC web site. To receive the *Bulletin* by e-mail, use our web site Mailing Lists tool at <http://www.fppc.ca.gov/index.html?id=408>

Proposition 34

Questions & Answers

Proposition 34 and the March 2004 Elections: Answering Candidate Questions

By Kevin S. Moen
FPPC Political Reform Consultant

The primary election for state legislative offices will be held March 2, 2004. In previous bulletins, the FPPC answered questions about Proposition 34 concerning Small Contributor Committees, the Voluntary Expenditure Ceiling, transfers between a candidate's campaign committees, and affiliation issues in relation to contribution limits (go to "Prop. 34" on our home page, and see Questions and Answers from the May 2001 and November 2001 editions of the Bulletin under "More Information"). On January 1, 2003, the contribution limits and voluntary expenditure ceilings for state candidates were raised. The following questions and answers deal with these changes, and many other important issues:

General Issues

Q: *I'm running for a legislative seat. When may I start raising funds for the **general** election?*

A: Prior to raising or spending money for any election, you must file the Candidate Intention Statement (Form 501). Once you have sent this form to the Secretary of State, you may raise funds for both the primary and general elections associated with the specific elective office you are

seeking. If you are unsuccessful in the primary election, however, you must return those contributions received earmarked for the general election to your contributors, less the cost of raising and administering the funds. Although you are not required to do so, you may establish separate bank accounts for the primary and general elections.

Q: *If I am unsuccessful in my election bid, may I return my contributions to those who contributed to my committee?*

A: Yes, you may return contributions to your contributors. However, you may not return contributions that you made from your personal funds to your own campaign, except those contributions that were reported as loans. Remember, a candidate may not have outstanding loans totaling more than \$100,000 at any one time per campaign for elective office.

Q: *I established a committee to run for state legislative office in 2002. May I use that committee to run for the same office in 2004?*

A: No. You must file a new Form 501, create a new committee, and use a separate campaign bank account for the new election, even if you are running for reelection.

Q: *As a candidate, what information must I include in a written solicitation for contributions?*

(Continued on page 4)

...Proposition 34

(Continued from page 3)

A: Candidates and their controlled committees must identify by name the particular controlled committee for which the contribution is being solicited. In addition, candidates for state elective office must identify the specific office for which the contributions are solicited. (See regulation 18523.1.)

Contribution Limits

Q: *What are the contribution limits for candidates for state legislative offices?*

A: A candidate for state Assembly or state Senate may not receive more than \$3,200 from a single source per election. (See regulation 18545.) (The primary and general elections are considered separate elections for purposes of the contribution limits.) However, a Small Contributor Committee (see Government Code section 85203 for a definition) may contribute up to \$6,400 per election. There is no limit on how much a political party may contribute to a candidate, nor is there a limit on the amount a candidate may contribute from personal funds to his or her own campaign. (A candidate may not have an outstanding loan made from personal funds of more than \$100,000 at any one time per campaign for elective office, however.)

Q: *What are the contribution limits for local candidates, and state or local ballot measure committees?*

A: The Political Reform Act does not impose limits on local candidates, nor on state or local ballot measure committees. However, many cities, counties, and special districts have their own limits for candidates. Contact the applicable jurisdiction

to find out if there are limits, and what the limits might be.

Q: *If, as a state candidate, I receive a contribution that exceeds the state contribution limits, what should I do?*

A: If you receive a monetary contribution that either on its face or in the aggregate exceeds the limits, return it prior to deposit or negotiation within 14 days of receipt. Deposit or negotiation of a monetary contribution that exceeds the limits is a violation of the Political Reform Act. If you receive a non-monetary contribution that exceeds the limits, within 14 days return the non-monetary contribution, its monetary equivalent, or the monetary amount by which the value of the non-monetary contribution exceeds the limits.

Transfers and Carryover

Q: *I ran for a senate seat in 2000. I still have funds remaining that were raised prior to January 1, 2001. May I transfer these funds to my 2004 reelection committee?*

A: Yes. You may transfer any amount raised prior to January 1, 2001, into your reelection campaign bank account without attribution.

Q: *I ran for assembly in 2000. I transferred \$10,000 in funds raised prior to January 1, 2001, into my 2002 reelection committee. My 2002 campaign account has always had a balance of \$10,000 or more. May I now transfer \$10,000 from my 2002 account to my 2004 **senate** committee without attribution?*

A: Yes, as long as the amount transferred to the senate committee account does not exceed the lowest balance in the 2002 committee's account following receipt of the unattributed transfer. (See regulation 18530.2.) For instance, you transferred \$10,000 from the funds remaining in your

(Continued on page 5)

(Continued from page 4)

2000 committee to run for reelection in 2002. If the balance in your 2002 account has never been less than \$10,000 at any one time, you may now transfer without attribution up to \$10,000 into your new 2004 senate account. Another example: You transferred \$20,000 from the funds remaining in your 2000 committee to run for reelection in 2002. If the lowest balance in your 2002 account was \$5,000, you may transfer no more than \$5,000 to your new 2004 senate campaign account without attribution.

Q: *I ran for assembly in 2002. I plan to seek a senate seat in 2004. May I transfer funds remaining in my assembly campaign, all of which were raised after January 1, 2001, to my senate campaign committee?*

A: Yes, but since the funds were raised for an election that took place after January 1, 2001, and you are seeking a different office, you must attribute the contributions to your contributors using a LIFO or FIFO accounting system (see the question and answer series on transfers by clicking onto "Prop. 34" on our home page, then click onto "November 2001" under "More Information," then go to page 3).

Q: *I ran unsuccessfully for the assembly in 2002. May I carry over any remaining funds into my committee for assembly in 2004?*

A: Funds remaining in your 2002 account must have been transferred to a new campaign bank account by the end of the reporting period following the day of the election. In other words, if you lost the 2002 general election for assembly, any funds remaining in the account after of December 31, 2002, became surplus. Surplus funds may not be used to seek elective office. (See regulation 18537.1.)

Q: *I ran successfully for the assembly in*

2002. May I carry over any remaining funds into my assembly reelection committee in 2004?

A: Yes. Since you were successful, any funds remaining in your 2002 campaign committee are not "surplus funds." In addition, since the committee receiving the carried over funds will be established for a subsequent election for the same elective state office, you may carry over any amount in the 2002 committee without attribution. (See regulation 18537.1.)

Voluntary Expenditure Ceiling

Q: *What is the Voluntary Expenditure Ceiling?*

A: When a state candidate completes a Candidate Intention Statement (Form 501), he or she must accept or reject the Voluntary Expenditure Ceiling (VEC). By accepting the VEC, a candidate for assembly agrees not to expend more than \$425,000 for the primary election nor more than \$637,000 for the general election. Candidates for senate who agree to the ceiling must not expend more than \$637,000 for the primary election nor more than \$956,000 for the general election. (Not all expenditures made by a campaign count toward the ceiling. See regulation 18540.)

Q: *Once I have accepted or rejected the Voluntary Expenditure Ceiling, may I change my mind and amend the Form 501?*

A: The only time you may change your designation is if (1) you did not exceed the VEC during the primary election, and (2) within 14 days after the primary election, you amend your Form 501 to indicate acceptance of the VEC for the general election.

Q: *If I accept the Voluntary Expenditure Ceiling for the primary election, may I reject it for the general election?*

(Continued on page 6)

...Proposition 34

(Continued from page 5)

- A: No. Your acceptance of the VEC pertains to both the primary and general elections. The VEC is lifted only if one of your opponents contributes personal funds to his or her campaign which exceed the ceiling.

Filing Deadline

- Q: *Do I file my semi-annual statement covering the period through December 31, 2003, on January 10, 2004, or January 31, 2004?*
- A: Candidates on the March 2, 2004, ballot must file their reports covering the period through December 31, 2003, by January 10, 2004.

Web Site Update



By Jon Matthews
FPPC Publications Editor

A revised fact sheet discussing revolving door and other post-employment issues is now posted on our web site. The publication, entitled, "Leaving Your State Job? Post-Employment Restrictions May Affect You," can be found in the publications section of our site, the restrictions on government employees section, and directly at the link:

<http://www.fppc.ca.gov/index.html?id=33>

Around the first of the year, watch our site for the posting of the new version of the Form 700 — Statement of Economic Interests. This

interactive document will be available in the forms section of our site at:

<http://www.fppc.ca.gov/index.html?id=234>

Attention clerks and filing officers: For more important information on the new Form 700 and its distribution through our web site, see our Clerk's Corner articles beginning on page 16 of this issue.

Many filing schedules for committees and candidates are available for 2004 elections. For links to the filing schedules, go to our filing deadlines page at:

<http://www.fppc.ca.gov/index.html?id=222>

Here's a reminder that the FPPC has expanded its new, automatic system for e-mailing Commission materials, news and notices to interested members of the public, the regulated community and the media. Benefits of this system include more timely and efficient service to those seeking information, as well as conservation of the Commission's limited resources.

To use the system, simply go to the new FPPC Mailing Lists page, accessed through the Mailing Lists link at the bottom of the left hand column of our web home page:

<http://www.fppc.ca.gov/index.html?id=408>

Once at the page, simply enter your e-mail address. Choose the e-mail list or lists you would like to join and click on the "submit" button at the bottom of the form. You then will receive a confirmation e-mail for each list chosen. Reply to the confirmation e-mail(s) and the selected materials will be sent to the e-mail address you have entered.

You also may use the new FPPC Mailing Lists page to *unsubscribe* from FPPC mailing lists in which you are no longer interested.

Please note that all of the publications and materials offered via the e-mail system also will be available directly from our web site.

If you have questions about the new system, don't hesitate to e-mail or call FPPC Publications Editor Jon Matthews at jmatthews@fppc.ca.gov, or (916) 323-2937.

New Regulation Codifies the “Segmentation Process”

By Natalie Bocanegra
FPPC Staff Counsel

At its September 2003 meeting, the Commission adopted regulatory language codifying its “segmentation process” to address the situation in which a public official has a conflict of interest in one of several related decisions. The purpose of the segmentation process is to allow an official to participate in certain decisions which may be “related” but continue to prohibit the official’s participation in decisions that are “inextricably interrelated” to the one in which the official has a conflict of interest.

Section 87100 of the Political Reform Act prohibits a public official from making, participating in making or otherwise using his or her official position to influence a governmental decision in which the official has a financial interest. In general, a public official has a financial interest in a decision, resulting in a conflict of interest for the official, if it is reasonably foreseeable that the decision will have a material financial effect on the official, unless a particular exception applies. (Section 87100 et seq.) Where the decision in which the official has a conflict of interest is related to other decisions, it is important to determine how broadly the Act’s disqualification rules will apply.

Under the Commission’s new regulation 18709, although an official may have a financial interest in a particular decision, the official is not prohibited from participating in other related decisions in which he or she does not have a financial interest, so long as the Commission’s “segmentation process” is followed. The regulation codifies longstanding Commission advice that an agency may segment a decision under this process provided that certain conditions are met. These conditions are:

- (1) The decision in which the official has a financial interest can be broken down into separate decisions that are not inextrica-

“The regulation codifies longstanding Commission advice that an agency may segment a decision under this process provided that certain conditions are met.”

bly interrelated to the decision in which the official has a disqualifying financial interest;

- (2) The decision in which the official has a financial interest is segmented from the other decisions;
- (3) The decision in which the official has a financial interest is considered first and a final decision is reached by the agency without the disqualified official’s participation in any way; and
- (4) Once the decision in which the official has a financial interest has been made, the disqualified public official’s participation does not result in a reopening of, or otherwise financially affect, the decision from which the official was disqualified.

Other provisions of this regulation specifically address budget and general plan decisions.

For additional information on the background and history pertaining to the “segmentation process,” please check the Commission’s website (<http://www.fppc.ca.gov>) for the June, August, and September 2003 agenda materials relating to this item.

Meeting Summaries

Summaries of actions at the Commission's regular monthly meetings are posted on the Commission's web site at:

<http://www.fppc.ca.gov/index.html?id=63>.

See the following article for a summary of enforcement actions.

Enforcement Summaries

October Commission Meeting

Late Contribution Reporting Violations

BMG Entertainment, FPPC No. 03/010. Staff: Commission Counsel Jennie Eddy and Investigator III Jon Wroten. BMG Entertainment, a music industry entity headquartered in NY, NY, committed two violations of the Political Reform Act by failing to file a late contribution report, in violation of Section 84203(a) and by failing to file a semi-annual campaign statement, in violation of Government Code section 84200(b) (2 counts). \$5,250

Crawford Law Firm, FPPC No. 02/703. Staff: Commission Counsel Jennie Eddy and Investigator III Jon Wroten. Crawford Law Firm, located in Des Moines, Iowa, failed to file a late contribution report, in violation of section 84203(a) (1 count). \$1,500

Campaign Reporting Violations

California Association for the Gifted Political Action Committee and Cathleen Silva, FPPC No. 00/671. Staff: Commission Counsel Jeffery A. Sly and Investigator III Leon Nurse-Williams. The committee is a general-purpose committee sponsored by the California Association for the Gifted. Cathleen Silva, committee treasurer, failed to timely file a pre-election campaign statement in violation of Government Code sec-

tion 84200.5(d), and a semi-annual campaign statement, in violation of Government Code section 84200(a) (2 counts). \$2,500

Allstate Insurance Company Political Action Committee and James P. Zils, FPPC No. 01/389.

Staff: Commission Counsel Jennie Eddy. Allstate Insurance Co. Political Action Committee ("ALLPAC"), a state general-purpose recipient committee sponsored by Allstate Insurance Co., and James P. Zils, treasurer of ALLPAC, committed four violations of the Political Reform Act by failing to disclose specific contributor information on four required campaign statements regarding individual Allstate Insurance Co. employees who cumulatively contributed \$100 or more to ALLPAC, in violation of Section 84211(f) (4 counts). \$6,000

M.D.C. Holdings, Inc., FPPC No. 03/277. Staff: Commission Counsel Jennie Eddy and Investigator III Jon Wroten. M.D.C. Holdings, Inc., a national residential homebuilder, located in Denver, Colorado, committed two violations of the Act by failing to timely file a semi-annual campaign statement, in violation of section 84200(b), and by failing to file a semi-annual campaign statement electronically, in violation of section 84605(a) (2 counts). \$6,000

SEI Violations

Dwayne Bower, FPPC No. 01/305. Staff: Commission Counsel Jennie Eddy and Investigator III Dan Schek. Dwayne Bower, a member of the governing board of the Ojai Water Conservation District, located in Ventura County, failed to timely file a 2002 annual Statement of Economic Interests, in violation of section 87300 (1 count). \$2,000

Terry MacRae, FPPC No. 02/546. Staff: Commission Counsel Jeffery A. Sly and SEI Coordinator Mary Ann Kvasager. Terry MacRae, a member of the California Travel & Tourism Commission, failed to timely file an initial Statement of Economic Interests, in violation of Government Code section 87300 (1 count). \$300

(Continued on page 9)

(Continued from page 8)

Major Donor - Streamlined Procedure

Failure to Timely File Major Donor Campaign Statements. Staff: Chief Investigator Alan Hernon, Investigator III Jon Wroten, and Political Reform Consultant Mary Ann Kvasager. The following persons and entities have entered into stipulations for failing to file major donor campaign statements that were due during the calendar year 2002, in violation of Government Code Section 84200:

- **Enrique & Megan Hernandez, FPPC No. 2003-312.** Enrique & Megan Hernandez of Pasadena, Calif., failed to timely disclose contributions totaling \$10,000 (1 count). \$400
- **William P. Carey, FPPC No. 2003-385.** William P. Carey of NY, NY, failed to timely disclose contributions totaling \$20,000 (1 count). \$400
- **Coleman Homes, Inc., FPPC No. 2003-388.** Coleman Homes, Inc., of Bakersfield, Calif., failed to timely disclose contributions totaling \$23,800 (1 count). \$638
- **Terry L. Moreland, FPPC No. 2003-487.** Terry L. Moreland of Bakersfield, Calif., failed to timely disclose contributions totaling \$10,000 (1 count). \$800
- **C. Anthony Thomas AKA Tony Thomas, FPPC No. 2003-490.** C. Anthony Thomas AKA Tony Thomas of Los Angeles, Calif., failed to timely disclose contributions totaling \$10,500 (1 count). \$800
- **Bestway Disposal Company, Inc., FPPC No. 2003-569.** Bestway Disposal Co., Inc., of Hesperia, Calif., failed to timely disclose contributions totaling \$10,000 (1 count). \$1,500
- **Stanley Black & Black Equities, FPPC No. 2003-570.** Stanley Black & Black Equities of Beverly Hills, Calif., failed to timely disclose contributions totaling \$15,715.22 (2 counts). \$2,357.28

- **Gillette Company, FPPC No. 2003-576.** Gillette Company of Boston, Mass., failed to timely disclose contributions totaling \$10,000 (1 count). \$1500

Failure to Timely File Major Donor Campaign Statements. Staff: Chief Investigator Alan Hernon, Investigator III Jon Wroten, and Political Reform Consultant Mary Ann Kvasager. The following persons and entities have entered into stipulations for failing to file major donor campaign statements that were due during the calendar year of 2002, in violation of Government Code Section 84200, and failing to electronically file major donor statements for the calendar year 2002, in violation of Government Code section 84605:

- **First Management Group Investments, Inc., FPPC No. 2003-348.** First Management Group Investments, Inc., of Washington, D.C., failed to timely disclose contributions totaling \$25,000 (1 count). \$400

September Commission Meeting

Campaign Money Laundering Violations

Colin Flaherty, FPPC No. 99/783. Staff: Senior Commission Counsel Deanne Canar and Supervising Investigator Dennis Pellón. The Commission issued a default decision and order regarding Colin Flaherty, the owner of Flaherty Communications, a public relations firm formerly located in San Diego and Encinitas. Flaherty engaged in a pattern of campaign money laundering, and campaign non-disclosure, by making campaign contributions in names other than his own, in violation of sections 84301 and 84300(c) of the Government Code, and by failing to file two major donor committee campaign statements, in violation of section 84200(b) of the Government Code (38 counts). \$76,000

(Continued on page 10)

(Continued from page 9)

Campaign Reporting Violations

AFL-CIO No On 226 Education Fund and Frances Arlene Holt-Baker; FPPC No. 00/377. Staff: Commission Counsel Bill Williams and Accounting Specialist Bill Marland. The committee was a primarily formed ballot measure committee, sponsored by the AFL-CIO. Arlene Holt-Baker was the treasurer for the Committee. They failed to report required information regarding campaign expenditures, in violation of section 84211, and made cash expenditures of \$100 or more, in violation section 84300 (6 counts). \$8,000

Paul F. Glenn; FPPC No. 02/705. Staff: Commission Counsel Jennie Eddy and Investigator III Jon Wroten. Paul F. Glenn of Santa Barbara failed to file a late-contribution report, in violation of section 84203(a) (1 count). \$3,500

SEI Violations

Frederick Kosmo; FPPC No. 02/234. Staff: Commission Counsel Jeffery A. Sly and SEI Coordinator Mary Ann Kvasager. Frederick Kosmo, a member of the California Apple Commission, headquartered in Fresno, failed to timely file an assuming office Statement of Economic Interests, in violation of Government Code section 87300 (1 count). \$600

Thomas Janzen; FPPC No. 02/457. Staff: Commission Counsel Jeffery A. Sly and SEI Coordinator Mary Ann Kvasager. Thomas Janzen, a member of the Planning Commission for the City of Sierra Madre, failed to timely file a 2001 annual Statement of Economic Interests, in violation of Government Code section 87203 (1 count). \$700

Robert Watrous; FPPC No. 02/549. Staff: Commission Counsel Jeffery A. Sly and SEI Coordinator Mary Ann Kvasager. Robert Watrous, a member of the California Board of Registered Nursing, headquartered in Sacramento, failed to timely file an assuming office and a 2001 annual Statement of Economic Interests, in violation of Government Code section 87300 (2 counts). \$400

Major Donor - Streamlined Procedure

Failure to Timely File Major Donor Campaign Statements. Staff: Chief Investigator Alan Hernon, Investigator III Jon Wroten, and Political Reform Consultant Mary Ann Kvasager. The following persons and entities have entered into stipulations for failing to file major donor campaign statements that were due during the calendar year of 2002, in violation of Government Code Section 84200:

- **Frederick DeMann, FPPC No. 2003-313.** Frederick DeMann of Los Angeles failed to timely disclose contributions totaling \$10,000 (1 count). \$400
- **Tom & Holly Gores, FPPC No. 2003-319.** Tom & Holly Gores of Santa Rosa failed to timely disclose contributions totaling \$25,000 (1 count). \$400
- **Moffatt & Nichol Engineers, FPPC No. 2003-322.** Moffatt & Nichol Engineers of Long Beach failed to timely disclose contributions totaling \$15,000 (1 count). \$400
- **Thomas F. Kelly, FPPC No. 2003-331.** Thomas F. Kelly of Boston, Mass. failed to timely disclose contributions totaling \$10,000 (1 count). \$400
- **William L. Davis, FPPC No. 2003-332.** William L. Davis of Encino failed to timely disclose contributions totaling \$26,000 (1 count). \$400
- **Clark E. Parker, FPPC No. 2003-339.** Clark E. Parker of Beverly Hills failed to timely disclose contributions totaling \$13,000 (1 count). \$400
- **American Bioscience, Inc. & Its Affiliate American Pharmaceutical Partners, Inc., FPPC No. 2003-372.** American Bioscience, Inc. & Its Affiliate American Pharmaceutical Partners, Inc., of Santa Monica failed to timely disclose contributions totaling \$11,000 (1 count). \$400

(Continued on page 11)

(Continued from page 10)

- **Scott Brittingham, FPPC No. 2003-378.** Scott Brittingham of Santa Barbara failed to timely disclose contributions totaling \$10,000 (1 count). \$400
- **Dave Brooks, FPPC No. 2003-379.** Dave Brooks of Santa Clarita failed to timely disclose contributions totaling \$10,000 (1 count). \$400
- **California Housing Consortium, FPPC No. 2003-384.** California Housing Consortium of Culver City failed to timely disclose contributions totaling \$25,000 (1 count). \$400
- **Central Health MSO., Inc., FPPC No. 2003-387.** Central Health MSO., Inc., of Covina failed to timely disclose contributions totaling \$10,000 (1 count). \$400
- **Cresleigh Homes Corp., FPPC No. 2003-390.** Cresleigh Homes Corp. of San Francisco failed to timely disclose contributions totaling \$10,000 (1 count). \$400
- **Electric City of Southern California, FPPC No. 2003-393.** Electric City of Southern California, located in Redondo Beach, failed to timely disclose contributions totaling \$10,000 (1 count). \$400
- **Enterprise Rent-A-Car, FPPC No. 2003-394.** Enterprise Rent-A-Car of Gardena failed to timely disclose contributions totaling \$10,000 (1 count). \$400
- **Steven J. Goldman, FPPC No. 2003-397.** Steven J. Goldman of Malibu failed to timely disclose contributions totaling \$10,000 (1 count). \$400
- **Jeff Haines, FPPC No. 2003-399.** Jeff Haines of Camarillo failed to timely disclose contributions totaling \$10,000 (1 count). \$400
- **Marcia Israel-Curley, FPPC No. 2003-402.** Marcia Israel-Curley of Los Angeles failed to timely disclose contributions totaling \$11,155 (2 counts). \$800
- **Peter R. Kellogg, FPPC No. 2003-404.** Peter R. Kellogg of New York, N.Y., failed to timely disclose contributions totaling \$10,000 (1 count). \$400
- **Peter D. Kiernan, FPPC No. 2003-405.** Peter D. Kiernan of Greenwich, Connecticut failed to timely disclose contributions totaling \$10,000 (1 count). \$400
- **L.F.P., Inc., FPPC No. 2003-407.** L.F.P., Inc. of Beverly Hills failed to timely disclose contributions totaling \$10,000 (1 count). \$400
- **Charles Theodore Mathews, FPPC No. 2003-410.** Charles Theodore Mathews of Pasadena failed to timely disclose contributions totaling \$10,000 (1 count). \$400
- **Michael D. McCarthy, FPPC No. 2003-411.** Michael D. McCarthy of New York, N.Y., failed to timely disclose contributions totaling \$10,000 (1 count). \$400
- **Michael & Gail Roback, Michael D. Roback M.D., A Medical Corp., FPPC No. 2003-414.** Michael & Gail Roback, Michael D. Roback M.D., A Medical Corp., of Los Angeles failed to timely disclose contributions totaling \$39,733 (2 counts). \$800
- **William Preston Raisin, FPPC No. 2003-421.** William Preston Raisin of San Francisco failed to timely disclose contributions totaling \$22,000 (1 count). \$400
- **Mark A. Roe, FPPC No. 2003-424.** Mark A. Roe of Danville failed to timely disclose contributions totaling \$10,000 (1 count). \$400

(Continued on page 12)

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- **Anne M. Roller, FPPC No. 2003-425.** Anne M. Roller of Coto de Caza failed to timely disclose contributions totaling \$11,222.84 (1 count). \$400
 - **Trimark Pacific Homes, FPPC No. 2003-430.** Trimark Pacific Homes of Westlake Village failed to timely disclose contributions totaling \$12,500 (1 count). \$400
 - **Stephen A. Wynn, FPPC No. 2003-436.** Stephen A. Wynn of Las Vegas, Nev., failed to timely disclose contributions totaling \$10,000 (1 count). \$400
 - **Denis McMahon, FPPC No. 2003-454.** Denis McMahon of San Francisco failed to timely disclose contributions totaling \$25,500 (1 count). \$400
 - **Ravano & Cooney, FPPC No. 2003-456.** Ravano & Cooney of San Rafael failed to timely disclose contributions totaling \$10,000 (1 count). \$400
 - **11 Haight Street, FPPC No. 2003-458.** 11 Haight Street of Burlingame failed to timely disclose contributions totaling \$10,000 (1 count). \$400
 - **Coyne Development Company, FPPC No. 2003-461.** Coyne Development Company of San Francisco failed to timely disclose contributions totaling \$29,250 (1 count). \$692.50
 - **Las Casitas Seventeenth Street, LLC, FPPC No. 2003-463.** Las Casitas Seventeenth Street, LLC of San Mateo failed to timely disclose contributions totaling \$24,500 (1 count). \$400
 - **Lofts at 712 Bryant Street, LLC & Affiliated Entity South Park Lofts, LLC, FPPC No. 2003-464.** Lofts at 712 Bryant Street, LLC & Affiliated Entity South Park Lofts, LLC of San Francisco failed to timely disclose contributions totaling \$28,000 (1 count). \$680
 - **Village Builders 98 & Affiliated Entities, FPPC No. 2003-468.** Village Builders 98 & Affiliated Entities of San Francisco failed to timely disclose contributions totaling \$25,000 (1 count). \$400
 - **Tom Murphy & Affiliated Entities, FPPC No. 2003-469.** Tom Murphy & Affiliated Entities of San Francisco failed to timely disclose contributions totaling \$39,250 (1 count). \$792.50
 - **1050 17th Street, LLC & Affiliated Entities, FPPC No. 2003-470.** 1050 17th Street, LLC & Affiliated Entities of San Francisco failed to timely disclose contributions totaling \$33,250 (1 count). \$732.50
 - **Allen, Curtis, Eisenberger & Affiliated Entities, FPPC No. 2003-471.** Allen, Curtis, Eisenberger & Affiliated Entities of San Francisco failed to timely disclose contributions totaling \$32,250 (1 count). \$722.50
 - **W. Charles Chastain, FPPC No. 2003-489.** W. Charles Chastain of Santa Monica failed to timely disclose contributions totaling \$11,396 (1 count). \$800
 - **Enxco Service Corp, FPPC No. 2003-491.** Enxco Service Corp. of North Palm Springs failed to timely disclose contributions totaling \$15,000 (1 count). \$400
 - **Parking Company of America Management, LLC, FPPC No. 2003-494.** Parking Company of America Management, LLC, of Downey failed to timely disclose contributions totaling \$26,000 (2 counts). \$1,600
- Failure to Timely File Major Donor Campaign Statements.** Staff: Chief Investigator Alan Hernon, Investigator III Jon Wroten, and Political Reform Consultant Mary Ann Kvasager. The following persons and entities have entered into stipulations for failing to file major donor campaign statements that were due during the calendar year of 2002, in violation of Government Code Section

(Continued on page 13)

(Continued from page 12)

84200, and failing to electronically file major-donor statements for the calendar year 2002, in violation of Government Code Section 84605:

- **Helen Lho, FPPC No. 2003-408.** Helen Lho of Beverly Hills failed to timely disclose contributions totaling \$50,000 (1 count). \$900
- **Network Management Group, FPPC No. 2003-416.** Network Management Group of Monterey Park failed to timely disclose contributions totaling \$10,000 (1 count). \$400
- **Felim O'Reilly & Affiliated Entities, FPPC No. 2003-455.** Felim O'Reilly & Affiliated Entities of San Francisco failed to timely disclose contributions totaling \$52,250 (1 count). \$922.50
- **UMB Corporation, FPPC No. 2003-457.** UMB Corporation of San Francisco failed to timely disclose contributions totaling \$50,400 (1 count). \$904
- **AF Evans Company, Inc., FPPC No. 2003-460.** AF Evans Company, Inc., of Oakland failed to timely disclose contributions totaling \$51,750 (1 count). \$917.50
- **Joe Imbelloni & Affiliated Entities, FPPC No. 2003-462.** Joe Imbelloni & Affiliated Entities of San Francisco failed to timely disclose contributions totaling \$54,750 (1 count). \$947.50
- **Matthew Murphy, FPPC No. 2003-465.** Matthew Murphy of San Francisco failed to timely disclose contributions totaling \$50,500 (1 count). \$905
- **James G. Nunemacher, FPPC No. 2003-466.** James G. Nunemacher of San Francisco failed to timely disclose contributions totaling \$52,750 (1 count). \$927.50

Litigation Report



Pending litigation report prepared for the Commission's December 11, 2003, meeting, with updates:

California ProLife Council, Inc. v. Karen Getman et al.

This case is a challenge to the Act's reporting requirements regarding express ballot measure advocacy. On October 24, 2000, the district court dismissed certain counts for standing and/or failure to state a claim. On January 22, 2002, the court denied a motion for summary judgment filed by plaintiff, and granted the FPPC's cross-motion. The court entered judgment on January 22, 2002, and plaintiff filed a Notice of Appeal with the Ninth Circuit Court of Appeal. The appeal was briefed by the parties, and by Amici The Brennan Center for Justice and the National Voting Rights Institute (joining in one brief) and the states of Washington, Nevada and Oregon (joining in one brief.) The court heard oral argument on February 11, and rendered its decision on May 8, 2003. The court rejected plaintiff's legal claims, affirming that the challenged statutes and regulations were not unconstitutionally vague, and that California may regulate ballot measure advocacy upon demonstrating a sufficient state interest in so doing. The court remanded the matter back to the trial court to determine whether California can establish a state interest sufficient to support its committee disclosure rules, and to determine whether the state's disclosure rules are properly tailored to that interest. To permit more time for discovery, the court issued an amended scheduling order on October 21, providing that discovery will extend to May 17, 2004, while discovery relating to expert witnesses will conclude on August 20, 2004. Dispositive motions, if any, will be heard no later than October 29, 2004. Trial is now set for March 7, 2005.

(Continued on page 14)



...Litigation Report

(Continued from page 13)

FPPC v. Agua Caliente Band of Cahuilla Indians, et al.

The FPPC alleges in this action that the Agua Caliente Band of Cahuilla Indians contributed more than \$7.5 million to California candidates and ballot measure campaigns between January 1 and December 31, 1998, but did not timely file major donor reports disclosing those contributions. The suit also alleges that the Agua Caliente Band failed to timely disclose more than \$1 million in late contributions made between July 1, 1998, and June 30, 2002. The FPPC later amended the complaint to add a cause of action alleging that the tribe failed to disclose a \$125,000 contribution to the Proposition 51 campaign on the November 5, 2002, ballot. The Agua Caliente Band has filed a Motion to Quash Service for Lack of Personal Jurisdiction, alleging that it is not required to comply with the Political Reform Act because of tribal sovereign immunity. A hearing on that motion was held on January 8, 2003, before the Honorable Loren McMaster, in Department 53 of the Sacramento County Superior Court. On February 27, the court ruled in the Commission's favor. On April 7, 2003, the Agua Caliente Band filed a petition for writ of mandate in the Third Appellate District of the Court of Appeal challenging the decision of the trial court. The petition was summarily denied on April 24, 2003. On May 5, the Agua Caliente Band filed a Petition for Review in the California Supreme Court. On June 23, 2003, the court extended the deadline by which it must grant or deny review to August 1, 2003. On July 2, 2003, the court requested the FPPC to file an Answer to the Agua Caliente Band's Petition for Review by July 11, 2003. The FPPC filed its letter brief Answer on July 11, 2003. The Agua Caliente Band filed its reply on July 14, 2003. On July 23, 2003, the Supreme Court granted review and transferred the case to the Third Dis-

trict Court of Appeal, directing that court to vacate its original order and to issue an order directing the Sacramento County Superior Court to show cause why the relief sought in the Agua Caliente Band's petition should not be granted. The parties have completed briefing on the petition for writ of mandate, and two amicus briefs have been filed in support of the Commission's position by the Attorney General and Common Cause. The Superior Court has scheduled a status conference for January 29, 2004.

FPPC v. Santa Rosa Indian Community of the Santa Rosa Rancheria

The FPPC alleges in this action that the Santa Rosa Indian Community of the Santa Rosa Rancheria (the Santa Rosa Rancheria) failed to file major donor semi-annual campaign statements in the years 1998, 1999, and 2001, involving more than \$500,000 in political contributions to statewide candidates and statewide propositions. The suit also alleges that the Santa Rosa Rancheria failed to disclose more than \$350,000 in late contributions made in October 1998. The complaint was originally filed on July 31, 2002, and was amended to October 7, 2002. On January 17, 2003, the Santa Rosa Rancheria filed a Motion to Quash Service of Summons and First Amended Complaint. This motion is based upon its claim of tribal sovereign immunity from suit. The FPPC's response to the motion was filed on February 10, 2003. The matter was originally scheduled to be heard on February 20, 2003, but was continued to March 6, 2003 at the request of Defendant. The matter was heard on that date before the Honorable Joe S. Gray in Department 54 of the Sacramento County Superior Court, and on May 13, 2003, the court entered its order in favor of Defendant. On July 14, 2003, the FPPC filed its Notice of Appeal in the Sacramento County Superior Court, thus initiating an appeal of that court's decision in the Third District Court of Appeal. On November 7, 2003, the Commission filed its opening brief in the appeal. The Santa Rosa Rancheria's response brief is due to be filed January 9, 2004.

(Continued on page 15)



...Litigation Report

(Continued from page 14)

Larry R. Danielson v. FPPC

This is a Petition for Writ of Mandate filed November 7, 2002, in the Sacramento County Superior Court, directed to the proposed decision of an Administrative Law Judge which had not yet come before the Commission. The FPPC filed a preliminary opposition to the petition on November 12, 2002, asserting that Danielsens had failed to exhaust his administrative remedies, since the Commission has not yet adopted, modified or rejected the proposed decision of the Administrative Law Judge, rendering the Petition premature. The Commission adopted the proposed decision at its December 2002 meeting. On November 7, 2003, after extensive briefing and a hearing, Judge Lloyd Connelly denied the petition on the merits, after commenting that, procedurally, the petition was also doubtful. Significantly, the court upheld the Commission's interpretation of section 87302 as permitting agencies to designate employees on their conflict of interest codes using either the employees' civil service classification or their job duties ("working title"). The Attorney General's office is co-counsel in this matter.

FPPC v. American Civil Rights Coalition, et al.

In a lawsuit filed September 3, 2003, the FPPC alleges that the American Civil Rights Coalition ("ACRC") and its CEO Ward Connerly violated state campaign disclosure laws by failing to file campaign statements reporting the source of almost \$2 million contributed to promote the passage of Proposition 54 on the October 7, 2003, ballot. A hearing on the FPPC's motion for a preliminary injunction was originally scheduled to be heard on September 26, but was rescheduled for September 19 at the request of FPPC attorneys. An Application for Intervention in this lawsuit was filed on September 16 by a group known as the "DOE Class" of past

and potential contributors to ACRC, seeking, among other things, to postpone the September 19 hearing to an unspecified later date. The court went forward with the injunction hearing on September 19, and denied the FPPC's motion on the ground that the factual record was not sufficiently developed to warrant a preemptive remedy. Defendants next brought a special motion to strike plaintiffs' complaint. The FPPC filed its opposition to that motion on November 10, 2003. On November 20, the court denied the motion in its tentative ruling. The court thereafter affirmed the tentative ruling. On December 3, 2003, ACRC filed a notice of appeal in the Superior Court that it plans to appeal the ruling to the 3rd District Court of Appeal.

FPPC v. Caroline Getty and Wild Rose, LLC

In a lawsuit filed October 16, 2003, the FPPC alleges that Caroline Getty and her wholly owned company Wild Rose, LLC violated campaign disclosure laws by making two \$500,000 contributions to the Nature Conservancy Action Fund of California in the name of Wild Rose, LLC, without disclosing that Ms. Getty was the true source of the contributions. The first contribution in 2000 was in support of the Propositions 12 & 13 campaigns. The second contribution in 2002 was in support of the Proposition 40 campaign. Both defendants have been served with the complaint. Responsive pleadings are due December 5, 2003.



FPPC
Toll-free Advice Line:
1-866-ASK-FPPC
(1-866-275-3772)

The Clerks' Corner

Statement of Economic Interests



Form 700 Helpful Hints,
Reminders, 2004 Quick Calendar
and Training Schedule for Filing Officers

Helpful Hints for Form 700 Filing Officers

As we gear up for the annual filing of Statements of Economic Interests, here are a few reminders and helpful hints:

- Provide code filers with the disclosure category portion of the conflict of interest code. The disclosure category describes "what" economic interests must be reported; the Form 700 describes "how" to report those economic interests.
- Date stamp each statement upon receipt in the "Official Use Only" section of the Cover Page.
- Annual statements that are postmarked by the March 1 or April 1, 2004, deadline (see page 19) are considered timely filed. For statements that are postmarked on or after April 1, 2004, please include either the postmarked envelope or a copy of the postmarked envelope when you forward the statements to FPPC as evidence of timely filing.
- Newly elected and leaving officeholders must file assuming or leaving office statements, respectively, within 30 days of assuming or leaving. Officeholders who are re-elected are not required to file leaving and assuming office statements. They continue to file annual statements.
- Filers who assumed office between October 1, 2003, and December 31, 2003, and filed assuming office statements are not required to file the 2003 annual statements. Their next annual statement will be due on March 1 or April 1, 2005, (whichever is appropriate) and will cover the day after their assuming office date through December 31, 2004.
- The gift, honoraria, travel and loan fact sheets have not been updated. Continue to use the fact sheets available on our web site. Those fact sheets can be accessed by clicking in the Library and Publications option on our home page.
- For statements that are to be forwarded to the Fair Political Practices Commission, remember to send those in within five days of the filing deadline.

Clerks! The FPPC's toll-free advice line is also for you. Call 1-866-ASK-FPPC (1-866-275-3772) with your questions on filing and other issues.



New Form 700 Will Be Available on FPPC Web Site — Will Not Be Mailed Except by Request

Due to budget constraints, the Form 700 (Statement of Economic Interests) will not be automatically mailed to city and county clerks or state agencies this year. The form will be available on our web site on or about January 1, 2004, to be printed and photocopied. We encourage you to instruct your filers to complete the interactive version of the form, print out the schedules they have completed and file the statement directly with you. See the "E-mail Notification to Filers" inset at right. Hopefully, the form will be available to you and your filers in a more timely fashion and...we have all saved a few trees! If however you desire your forms to be mailed directly to you, please contact our Technical Assistance Division by calling 1-866-ASK-FPPC and press 3.

E-mail Notification to Filers

If you can communicate with your filers by e-mail then you can notify them of their filing obligation by e-mail! Please be sure that:

- In your e-mail, direct filers to go to FPPC's web site, www.fppc.ca.gov, click into "Forms" in the upper right-hand corner of the home page, and scroll down to access the Form 700 interactive version;
- You have a mechanism in place to confirm that notification has been received;
- The e-mails are archived until such time as the statement has been filed; and
- You have scanned your conflict of interest code as an attachment to your e-mail so that code filers know their reporting obligations.

Remember that for filers who do not have computer access or e-mail capabilities, you must supply the form by mail or personal delivery.

Form 700 Certification — For Incumbents Running in the March 2004 Election

Incumbents who are running in the March 2004 election, and who filed candidate statements in December 2003 in connection with the election, may use a Form 700 Certification in lieu of the full Form 700 as their annual statement in 2004. This form may only be used by incumbents, not challengers.

The Form 700 Certification allows incumbents to review their candidate statement of economic interests and verify that the candi-

date statement contains all economic interests required to be disclosed by the annual statement. If there are discrepancies between interests disclosed on the candidate statement and the interests required by the annual statement, the incumbent may attach necessary schedules to the 700 Certification to bring his or her annual statement up to date.

(Continued on page 18)



...Form 700 Certification

(Continued from page 17)

Example: Sierra County Supervisor Jones filed a Candidate Form 700 at the time of filing his declaration of candidacy in connection with the March 2004 election. The period covered on the Candidate Statement Form 700 included income received for the previous 12-month period and all investments and real property held on the date the declaration of candidacy was filed. Supervisor Jones won re-election in the March 2004 election. After reviewing the candidate statement, it was determined that additional income had been received between the period of time that the declaration of candidacy had been filed and the end of December 2003. Supervisor Jones completes a new Schedule C, Income, and includes it with the Form 700 Certification that is filed in lieu of an annual Statement of Economic Interests.

Filing Officer Training Workshops Scheduled For February

Filing officials should mark their calendars and attend an FPPC workshop on processing the Form 700 for agency staff.

Each year, the FPPC schedules a series of training workshops that review the duties and responsibilities imposed on staff assigned to process the Statement of Economic Interest, Form 700.

If you're a new filing official, these workshops cover everything you need to know, including an extensive discussion on how to review forms and the process required to ensure that all filers do file. If you've been a filing official in the past but have been away from it for a few years, these

workshops are excellent refresher courses. There's also ample time for questions and answers.

Conducted by political reform consultants at the FPPC's location in downtown Sacramento, these two-hour workshops are free of charge. Seating is limited, however, so reservations are absolutely required — the earlier the better because the workshops do fill up.

The FPPC is located at 428 J Street, corner of 5th and J (a new "Subway" is on the ground floor), an easy 20 minute ride from Sacramento International Airport. From Interstate 5, coming from either direction, take the J Street exit; we're two blocks up on the right.

State agencies:

**Tuesday, February 3, 10 a.m.,
OR**

Wednesday, February 11, 1 p.m.

City/County agencies:

**Wednesday, February 4, 1 p.m.,
OR**

Thursday, February 19, 10 a.m.

Multi-county agencies:

Wednesday, February 18, 1 p.m.

For further information, and to make reservations, please call (916) 322-5660, ext. 3, or 1 (866) 275-3772.



**See our handy
2004 Statement of
Economic
Interests quick
calendar on page 20. Clip it
and save it!**



The SEI Filing Season Arrives

As a new year begins, so too begins a new filing season for Form 700s, the annual statements of economic interests (SEIs).

Due March 1, 2004:

For statements from the following filers, make a copy of the statement for your records, send one copy to the Secretary of State, and send the original to the Fair Political Practices Commission within five days of the deadline or five days of receiving a statement that is filed late:

- Governor
- Lieutenant Governor
- Attorney General
- Insurance Commissioner
- Controller
- Secretary of State
- Treasurer
- Superintendent of Public Instruction
- Members of the state Assembly
- Members of the state Senate
- Members of the state Board of Equalization

For statements from the following filers, keep a copy and send the original to the FPPC within five days of the deadline or receipt of a statement filed late:

- Judges and court commissioners
- Members of the Public Utilities Commission
- Members of the Energy Resources Conservation and Development Commission
- Members of the California Coastal Commission
- Elected members of the board of administration of the California Public Employees Retirement System.

Due April 1, 2004:

For statements from the following filers, keep a copy and send the original to the FPPC within five days of the deadline or receipt of a statement filed late:

- County Supervisor
- District Attorney
- County Counsel

- County Treasurer
- County Chief Administrative Officer
- County Planning Commissioner
- Member of City Council
- Mayor
- City Manager
- City Attorney
- City Treasurer
- City Chief Administrative Officer
- City Planning Commissioner

Due April 1, 2004:

- City and county public officials who manage public investments (NOTE: Statements filed by these officials are not forwarded to the FPPC).

Designated Employees Within a City, County or Local Agency Conflict of Interest Code

To determine who else within your city, county or local agency must file statements of economic interests, refer to your agency's conflict-of-interest code. That code should list positions within your agency for which employees must complete SEIs. The conflict-of-interest code should also set out employees' filing obligations and the date that annual SEIs are due. If your agency adopted the model code in 2 C.C.R. § 18730 as your conflict-of-interest code, your filing deadline is April 1.

When you give a designated employee a Form 700 to complete, you must also provide the employee's disclosure category (from your agency's conflict of interest code). The agency conflict code, not the form, determines what that employee must report and where to file. The majority of designated employee statements are not sent to the FPPC. You should also provide the FPPC's fact sheet on gift, honoraria and travel restrictions which is available on the Commission's website at <http://www.fppc.ca.gov>.

See our 2004 quick calendar on the next page. ➡



2004 Quick Calendar for Statements of Economic Interests and Conflict of Interest Codes



January 2004	Form 700 Mailing Due to budget constraints, the FPPC is only providing e-mail notification to agencies when the 2003/2004 Form 700 becomes available, unless a hard copy is specifically requested. The form is scheduled to be approved at the Commission's December 2003 meeting, so the form should be available on our web site in early January 2004. Continue to use the 2003 Gift, Honoraria, Travel and Loan Fact Sheet available on our web site. Since there were no changes affecting this fact sheet, it will not be updated this year.
March 1, 2004	Form 700 Filing Deadline See the previous page (page 19) for the list of officials required to file on March 1.
March 8, 2004	Deadline for Forwarding March 1 Form 700s to FPPC You can clear your desk and forward these statements to us before the deadline.
April 1, 2004	Form 700 Filing Deadline See page 19 for the list of officials required to file on April 1.
April 6, 2004	Deadline for Forwarding Form 700s Filed by April 1 to FPPC Only forward statements for the officials listed on page 19.
June 2004	Biennial Conflict of Interest Code Mailing Each city, county and multi-county agency will receive a mailing explaining the biennial code review process.
July 1, 2004	Local Code Reviewing Body Notification Deadline City and county code reviewing bodies are required to notify each local agency within their jurisdiction to review its conflict of interest code and determine if amendments are necessary. <ul style="list-style-type: none"> - The City Council is the code reviewing body for city agencies. - The Board of Supervisors is the code reviewing body for county agencies and for other local agencies (special districts) with single county jurisdiction.
August 2004	Forward November 2 Election Form 700 Candidate Statements to FPPC Only forward candidate statements for filers listed on page 19.
Summer 2004	Conflict of Interest Code Workshops Watch our website for upcoming workshops in Sacramento to assist local government agencies with the code amendment process.
October 1, 2004	Local Agency Biennial Notice Deadline Agencies that notify the code reviewing body that a conflict of interest code amendment is necessary must amend their codes within 90 days. Only multi-county agencies must forward their notices to the FPPC. City and county agencies forward their notices to their code reviewing body.
Ongoing	Assuming and Leaving Office Statements <ul style="list-style-type: none"> - Continue to monitor and notify filers who assume or leave office of the Form 700 filing requirements. - Forward assuming and leaving office statements for filers listed on page 19 within five days of a filing deadline. - Notify the FPPC if you are not successful in obtaining a statement for these filers.

Legislative Update



Chaptered bill:

Newly chaptered legislation will extend to local public officials the Political Reform Act's prohibition against participating in or attempting to influence government decisions that affect a prospective employer.

The legislation, AB 1678, by Assemblymember Gloria Negrete McLeod, was signed by the governor on October 10, 2003, and will go into effect on January 1, 2004.

The Commission supported the legislation, which extends to local officials a prohibition against taking part in governmental decisions affecting an entity with whom they are negotiating future employment. The FPPC asked the legislature for an annual appropriation of \$145,000 to fund additional staffing necessary to implement and enforce the new law. The legislature passed the bill but did not appropriate the additional funding.

The current prohibition has been in effect since 1991, but applied only to state administrative officials, elected state officers and designated employees of the Legislature. The new law extends the prohibition to all public officials, which includes every member, officer, employee or consultant of a state or local government agency. The prohibition will not apply to members of the Board of Governors and designated employees of the State Bar of California, and public officials serving in some judicial and legal positions.

(The following is condensed from the Legislative Report prepared for the December 11, 2003, meeting of the Commission.)

Proposed constitutional amendment:

SCA 14 (Vasconcellos) would, subject to voter approval, establish the FPPC, California Economic Strategy Panel (CESP) and the California Redistricting Commission by constitutional amendment. It would establish the Clean Campaign Fund, administered by the FPPC and providing public funds to candidates under certain conditions. It would require the FPPC to license and monitor campaign consultants, change voting options and primary election date, increase the size of the Senate and Assembly and lengthen their members' terms of office. It would give the Legislative Counsel a role in redistricting, revise redistricting standards and create the CRC for the purpose of advising the Legislative Counsel, and give the Supreme Court the job of writing a redistricting plan if the Legislature does not approve one of three plans submitted by the Legislative Counsel.

Bills proposing to amend the Political Reform Act:

AB 890 (Wesson) would allow an elected state officer serving his or her last permitted term of office to accept contributions after the date of the election. Would apply Proposition 34 limits only to committees formed for post-Proposition 34 elections.

AB 1197 (Wiggins) would include in the definition of "designated employee" any board member, chief business officer, superintendent, assistant superintendent, deputy superintendent, associate superintendent, chief personnel officer, and general counsel of a public school district or county office of education, and equivalent positions, and any individual having governance or management responsibility in a charter school.

(Continued on page 22)

...Legislative Update

(Continued from page 21)

AB 1501 (Levine) would allow a state candidate to change his or her statement accepting or rejecting the voluntary expenditure limits at any time prior to the deadline for filing nomination papers, provided that he or she has not exceeded the voluntary limits.

AB 1623 (Longville) would repeal the prohibition on using public funds to obtain elected office. It would provide for the creation of "Freedom Drafts," defined as a claim on an amount in the state treasury, for an individual to make one or more contributions to an eligible recipient, on a form prescribed by the Secretary of State, in the amount of not less than \$10 each, and which in the aggregate do not exceed \$100 in a calendar year.

AB 1784 (Wolk) would prohibit legislators from participating in decisions in connection with which a lobbyist, with whom the legislator has a business relationship, has attempted to influence the legislator. Defines business relationship, and requires legislators who recuse themselves under this section to disclose the nature of the business relationship on the record.

AB 1785 (Frommer) would prohibit a lobbyist from contacting a legislator with whom the lobbyist has or had a contract to provide political consulting services during the two year period for the purpose of influencing legislative action.

SB 467 (Johnson) would allow an elected state officer serving his or her last term to accept contributions to pay for expenses associated with holding that office. The contributions are subject to Proposition 34 limits.

SB 604 (Perata) would define "cumulative contributions" to be those contributions received beginning 12 months prior to the date the committee made its first expenditure to qualify, support, or oppose the measure and ending within seven days of the time the advertisement is sent to the printer or broadcast station. It would also modernize the language of the Act relating to the filing of a statement of organization by deleting a reference to filing by telegram, and add methods for filing, including facsimile transmission and guaranteed overnight delivery. Amended to reform the slate mail disclosure statutes at issue in *Levine v. FPPC*.

SB 641 (Brulte) would change the definition of "mass mailing" found in the Act from "mail" to a specific definition of what items delivered to a person constitute a mass mailing. It would also add language to the Act prohibiting the expenditure by a candidate, committee or slate mail organization for anonymous telephone advocacy for a candidate, ballot measure, or referendum.

SB 1072 (Burton) would add contributions made to or received by a political party committee after the closing date of the last campaign statement required to be filed before an election to the definition of late contribution.

FPPC Advice Summaries

Formal written advice provided pursuant to Government Code section 83114 subdivision (b) does not constitute an opinion of the Commission issued pursuant to Government Code section 83114 subdivision (a) nor a declaration of policy by the Commission. Formal written advice is the application of the law to a particular set of facts provided by the requestor. While this advice may provide guidance to others, the immunity provided by Government Code section 83114 subdivision (b) is limited to the requestor and to the specific facts contained in the formal written advice. (Cal. Code Regs., tit. 2, §18329, subd. (b)(7).)

Informal assistance may be provided to persons whose duties under the act are in question. (Cal. Code Regs., tit. 2, §18329, subd. (c).) In general, informal assistance, rather than formal written advice is provided when the requestor has questions concerning his or her duties, but no specific government decision is pending. (See Cal. Code Regs., tit. 2, §18329, subd. (b)(8)(D).)

Formal advice is identified by the file number beginning with an "A," while informal assistance is identified by the letter "I."

Campaign

David Bauer
Maddox for Assembly
Dated: August 22, 2003
File Number A-03-037

An Assembly member had funds in his campaign bank account on January 1, 2001, redesignated his committee for his next successful Assembly campaign and later transferred funds from the Assembly committee to a state Senate campaign committee. Because the balance of funds in the bank account for the Assembly committee never fell below \$45,000 between January 1, 2001, and the date of the transfer of funds to the state

Senate committee, it could be established that these funds remained from the funds in the committee bank account on January 1, 2001. Thus, he was permitted to amend the Form 460 filed for his state Senate campaign to reflect that \$45,000 of the \$110,000 transferred from his Assembly committee was unattributed pursuant to regulation 18530.2.

Mike Morrell
Mike Morrell for Senate
Dated: August 6, 2003
File Number A-03-089

A former candidate for a U.S. congressional seat was advised that he could transfer funds remaining in his federal candidate committee to his controlled-committee for a current state Senate race. The transfer, however, is subject to attribution under section 85306 and contribution limits under section 85301(a). What this means is that funds must be attributed to the individual donors to the federal congressional committee and each such contribution may only be provided to the candidate's state Senate committee if, when the federal and state contributions are combined, they would not cause a donor to the state Senate committee to exceed the applicable contribution limit. In this instance, the applicable contribution limit is \$3,200 per person, per election.

Gregory D. Totten, D.A.
Ventura County
Dated: August 1, 2003
File Number A-03-130

Officials must disclose as contributions any payments raised for officials' litigation costs in connection with activities related to their status as officeholders. The two officials should notify contributors of the specific amount allocated to each of their committees.

Wayne Ordos
Kern County
Dated: August 7, 2003
File Number A-03-144

The use of surplus funds belonging to a deceased candidate and the rule applicable to disbursement of the funds to charities is discussed in this letter.

(Continued from page 23)

Jane K. Willet
Tom Wilson For Assembly
Dated: August 27, 2003
File Number A-03-165

Only subvendors who receive individual payments of \$500 or more made on behalf of a committee are required to be itemized on the committee's campaign statement. In addition, this letter concludes that the use of a campaign committee credit card is reported the same as if the committee's checking account were used; all vendors who receive a single payment of \$100 or more must be itemized on the committee's campaign statement. If more than one payment is made for the same good or service, the payments must be cumulated to determine if the applicable threshold has been reached.

Gay Brewer
City of Inglewood
Dated: August 25, 2003
File Number I-03-174

A candidate was given general advice about reporting nonmonetary contributions when an individual or entity pays a vendor directly for goods or services provided to a candidate. The letter also discusses amendments to campaign statements.

Caren Daniels-Meade
Political Reform Division
Dated: August 11, 2003
File Number A-03-178

The Secretary of State is advised that an amended Candidate Intention Statement (Form 501) filed by a replacement candidate for Governor in the October 7, 2003, recall election, which changes the candidate's designation regarding the voluntary expenditure limits, has no force and effect. The Act does not provide any method for a state candidate to change his or her expenditure limit designation. The letter recommends that the amended Form 501 be returned to the candidate.

Marilynne Mellander
El Sobrante Municipal Advisory Council
Dated: August 20, 2003
File Number A-03-181

A board member who has been appointed to an

elected position is advised that, because the board member position is unsalaried, she need not file a semi-annual campaign statement for any 6-month period in which she has neither received contributions nor made expenditures.

Virginia J. Bloom
Office of the County Clerk/Recorder
Dated: July 17, 2003
File Number I-03-135

A county filing officer is advised that the county is authorized and required to review all original campaign statements filed with the county, including those filed by a state candidate who is also a county officeholder. There is no time limit on requesting amendments.

Margie L. Rice
City of Westminster
Dated: July 16, 2003
File Number A-03-140

Cumulative totals reported on a campaign statement, Form 460, are calculated on a calendar year basis. Thus, cumulative totals from the previous report must be added to figures from the reporting period for the report being filed to determine the cumulative totals, unless the report being filed covers the period beginning January 1. In that case, cumulative totals from the previous report should not be added to the current reporting period figures, except for loans received, loans made and accrued expenses.

James V. Lacy
City of Dana Point
Dated: June 6, 2003
File Number I-03-076

A local officeholder, defined as a "candidate" under § 82007, does not "control" a statewide candidate committee merely by reason of his status as a local officeholder, while he serves as treasurer and legal counsel to the statewide committee.

Kristine Sremaniak
Mike Morrell for Assembly
Dated: June 13, 2003
File Number A-03-092

Several questions concerning in-kind contributions to a candidate's campaign from the candi-

(Continued on page 25)

(Continued from page 24)

date's wholly owned corporation under Proposition 34 limits are discussed.

Ginger Osborne
Village Laguna of Laguna Beach
Dated: June 11, 2003
File Number A-03-108

A multi-purpose organization, which is also a general purpose recipient committee, is advised that it has only to report that portion of its receipts which is actually spent in connection with political activities in California. A general purpose recipient committee is not required to have a separate bank account; it may use the bank account of its sponsoring organization. A sponsored committee must include the full name of its sponsor in the name of the committee.

Conflict of Interest

Terence R. Boga
City of Seal Beach
Dated: August 8, 2003
File Number A-03-067

A city engineer and a city manager are each presumed to have a conflict of interest in decisions pertaining to a proposed development located within 500 feet of each official's real property. The officials are prohibited from participating in these decisions unless this presumption is rebutted or if an exception to the conflict-of-interest rules applies. The "significant segment" prong of the "public generally" analysis is specifically addressed. (Further discussion of the "public generally" exception as it applies to the facts surrounding these decisions is included in a follow-up letter, *Boga Advice Letter*, No. I-03-067(a).)

John M. Rea
Department of Industrial Relations
Dated: August 7, 2003
File Number A-03-107

A state agency is advised that third party contractors hired to initiate and enforce labor compliance agreements according to statutory requirements are consultants under the Act since they make governmental decisions.

Bruce C. Cline
City of Folsom
Dated: August 22, 2003
File Number A-03-110

A historic district commissioner has a conflict of interest in a railroad block decision unless the "public generally" exception applies.

Sandra Wallace
Soquel School District
Dated: August 4, 2003
File Number I-03-111

A public official is not required to obtain a professional appraisal, it is up to the official to decide whether or not to seek such an appraisal. The Commission cannot evaluate the factual accuracy of an appraisal, the official must make this determination.

Louis F. Brichetto
Oakdale Irrigation District
Dated: August 8, 2003
File Number A-03-153

A director of an irrigation district, who pledges that his properties will not be annexed to the district, is presumed not to have a conflict of interest in a decision to lower the annexation fee.

Roy A. Hanley
Municipal Advocates Group, LLP
Dated: August 4, 2003
File Number I-03-154

Because the council member owns a lot which is zoned in the zoning category subject to a city council decision, the affected council member may not participate in the decision to change that zoning code.

Mark W. Steres
City of Monterey Park
Dated: August 1, 2003
File Number A-03-155

Where a public official has a source of income which abuts a development project before the governmental body, and which requires easements across its property in order to complete the development, a conflict of interest might exist because both decisions may be too interrelated.

(Continued on page 26)

(Continued from page 25)

David E. Wulfsberg
Sherwood Automotive Group
Dated: August 29, 2003
File Number A-03-156

Under certain circumstances, the Commission will pierce through a nonprofit and treat a donation to the nonprofit as a payment to the public official who is employed by or serves on the nonprofit board. Provided the public official does not solely control the organization and the donation will not affect the income the public official receives from the charity, the donation will not be considered a gift to the official.

T. Brent Hawkins
City of Brentwood
Dated: August 20, 2003
File Number A-03-160

Advice was sought on behalf of three public officials as to whether they have conflicts of interest disqualifying them from voting on the location and development of a new parking structure in the city's downtown redevelopment area. The advice concluded that insofar as the request sought advice on "decisions relating to the construction of the parking garage," the request was too vague to offer a response. The advice, therefore, was limited to a decision concerning location.

One official was advised that her salary from a local school district fell under the local government agency exception found in the Act's definition of "income" so that she does not have an economic interest that will be affected by these decisions. Another official was advised that although he is a named beneficiary under a trust, which owns property within 500 feet of the proposed site, since the trust was revocable and he has not received any distributions from the trust, the assets and income of the trust are not attributable to him. For these reasons, the advice concluded that he does not have an economic interest to be affected by these decisions. The third official was advised that since he was a 50% owner of a commercial property located within 500 feet of one of the two alternate sites contemplated for the parking garage,

he has a conflict of interest disqualifying him from voting on the site selection.

Daniel J. McHugh
City of Redlands
Dated: August 12, 2003
File Number A-03-163

Redevelopment agency directors have a conflict of interest in a decision to issue new tax increment bonds for the agency, only if the decision will have a material and foreseeable financial effect on their economic interests, including sources of income and businesses that operate in the redevelopment area.

Doug Tessitor
City of Glendora
Dated: August 20, 2003
File Number A-03-167

A council member is advised that neither the business owned solely by his brothers-in-law nor contributions given to him by his brothers-in-law are economic interests of the council member's. In the absence of economic interests, the council member is able to participate in decisions regarding the business owned by his brothers-in-law.

Pete Parkinson, AICP
County of Sonoma
Dated: August 7, 2003
File Number A-03-170

A public official is advised that he does not have a conflict of interest prohibiting his involvement in decisions concerning a groundwater resource study, even though his principal residence is located within the study area. According to the facts provided by the official, governmental decisions resulting from the study will not have any financial effects at all upon his principal residence.

William H. Wainwright
Martinez City Council
Dated: August 27, 2003
File Number A-03-179

A council member whose residence is located within 500 feet of real property which is the subject of a governmental decision may vote on that decision if he reasonably relies on an appraisal

(Continued on page 27)

(Continued from page 26)

which indicates that the decision will have no financial effect on the council member's real property.

Guy D. Petzold
City of Stockton
Dated: August 20, 2003
File Number A-03-184

A campaign contribution is not considered either a gift or income for purposes of a conflict of interest under section 87100 of the Act. Moreover, the disqualification provisions of section 84308 of the Act do not apply to local government agency officials, such as city council members, who are directly elected by the voters.

Derek Johnson
Isla Vista Recreation & Park District
Dated: July 3, 2003
File Number A-03-062

A director for a recreation and park district is employed by a union as a part-time organizer and is also employed by a nonprofit organization. When his employer, the union, negotiates with the district on a labor contract, the union meets the test for direct involvement in the governmental decision. The director will be required to recuse himself from the decision, because any reasonably foreseeable financial effect at all, even one penny, on the union is deemed material. The nonprofit organization may be an independent basis for disqualification from this decision if the decision will have a reasonably foreseeable material financial effect on the nonprofit. When the district considers an ordinance sponsored by the director, both of his employers, as indirectly involved entities, may disqualify the director from participating in the decision if the decision will have a reasonably foreseeable material financial effect on either entity. In addition, a "nexus" exists between the director's duties for the union and his public duties so that any reasonably foreseeable financial effect on the union would disqualify the director from participation in this governmental decision as well.

Michael F. Dean
City of Dixon
Dated: July 21, 2003
File Number I-03-082

A council member may not participate in a decision regarding development in a thoroughbred horseracing facility if it is reasonably foreseeable that her economic interests will be materially affected unless the "public generally" exception applies.

Sue Horne
County of Nevada
Dated: July 24, 2003
File Number A-03-095

A member of the board of supervisors may participate in a decision to alter requirements of the second unit pilot program since it is not reasonably foreseeable that the decision will have a material financial effect on the official's economic interests.

Danny Weil, PhD, JD
The Critical Thinking Institute
Dated: July 17, 2003
File Number I-03-098

The mayor pro tem of a city who has a financial interest in his coffee shop is advised that he cannot participate in decisions if it is reasonably foreseeable that his coffee shop will be materially financially affected as a result of those decisions. If the mayor pro tem sells the coffee shop he will have an economic interest in the purchaser for 12 months after the purchase. However, if he gifts the interest in the coffee shop to his adult child, he would have an economic interest in the coffee shop as a source of income for 12 months.

T. Brent Hawkins
City of Hawthorne
Dated: July 1, 2003
File Number A-03-112

Multiple public officials were advised as to whether their economic interest in real property presents a conflict of interest which prohibits their involvement in decisions concerning the addition of property to an existing redevelopment area. The appropriate distance for measuring

(Continued on page 28)

(Continued from page 27)

whether the officials' real property interests are within 500 feet of the project area and therefore directly involved in these decisions is the distance between either the current or proposed boundaries of the redevelopment area and their respective properties. The general form of the "public generally" exception (regulation 18707.1) cannot be applied since there is no showing that their economic interests will be affected in a manner that is similar to the effect on the public generally. The specialized form of the "public generally" exception (regulation 18707.9) does apply to one official's economic interest in residential rental property.

Brien J. Farrell
City of Santa Rosa
Dated: July 11, 2003
File Number I-03-121

A member of the city's design review board was given informal assistance on whether she may, in her private capacity as a land use consultant, represent clients before other city agencies and communicate with city staff. The official was advised that she may represent clients before other city agencies as long as she does not purport to be acting in her official capacity. The official was further advised that an agency includes its staff or city staff assigned to or shared by that agency. Since the design review board shares staff with another city agency, the official was advised that she may not communicate with any shared staff that is assigned to a project that is or will be before the design review board. Any such communication would be an appearance or contact with the official's own agency for the purpose of influencing a governmental decision.

Ron Brandley
City of Sierra Madre
Dated: July 15, 2003
File Number I-03-127

A public official who is a business owner of a floral shop and also sits on the city planning commission may not vote on a matter that affects the signs of that floral shop.

Lisa A. Foster
City of San Diego
Dated: July 31, 2003
File Number I-03-128

When a public official attends an event that has no admission price, which is held for a purpose other than entertaining or meeting with officials, the valuation of the event is based on the official's pro rata share of the total cost of the event. The official should make a good faith determination of the value of the gift received when disclosing gifts, regardless of when the information is obtained.

Jonathan B. Stone
City of Vista
Dated: July 24, 2003
File Number A-03-131

A city employee was advised that since neither her income from her former employer, nor the stock she had divested, were economic interests, she could participate in a profit sharing negotiation between the city and her former employer.

Karin D. Troedsson
Town of Yountville
Dated: July 16, 2003
File Number A-03-134

A public official who resides in a semi-private room at the Veterans Home of California in Yountville does not have "an interest in real property" in the home or its grounds.

Sheryl L. Bratton
Sonoma County
Dated: July 17, 2003
File Number A-03-138

Where development projects are not contingent upon one another, they may nevertheless be too interrelated to be considered separately. In such cases, a public official's conflict of interest in one situation will disqualify him or her from participating in other decisions.

Julia M. Lew
City of Porterville
Dated: July 17, 2003
File Number A-03-139

Participation in a governmental decision is not

(Continued on page 29)

(Continued from page 28)

legally required where there exists an alternative source of decision consistent with the purposes and terms of the statute authorizing the decision.

Prentice Deadrick
Center for Community & Family Services, Inc.

Dated: July 21, 2003

File Number I-03-143

A public official who is employed by a nonprofit organization was given informal assistance wherein he was told that he could vote on matters that would have a material financial effect upon a business owned by one of his employer's board members. Since management of the nonprofit organization, including hiring and decisions regarding compensation, are made by a majority vote of the board, it was inappropriate to "pierce" through the organizational structure; the individual board member and his wholly-owned business are not economic interests to the public official.

Gregory V. Moser
Del Mar Thoroughbred Club

Dated: July 23, 2003

File Number A-03-147

The existence of a conflict of interest is premised, in part, on the making and participating in making or influencing of a *governmental* decision. Thus, a board member of an agency will not have a conflict of interest prohibiting him from influencing a decision before a private entity, the Del Mar Thoroughbred Club, on behalf of his employer. However, the director will have a conflict of interest in *any* governmental decision that will have a reasonably foreseeable material financial effect on his employer.

Edwin S. Beckenbach
No. San Juan Fire Protection District

Dated: July 21, 2003

File Number A-03-152

There is no conflict of interest under the Act when a wife works for a local governmental agency at the same time her spouse serves on the board of the agency.

Robert Westmeyer

County of Napa

Dated: June 3, 2003

File Number I-03-003

The concerns of a public official regarding participation generally as a county supervisor and her possible conflicts of interest were addressed in a prior advice letter, *Dillon* Advice Letter No. I-02-082. This follow-up letter applies the "public generally" exception to a referendum decision possibly revoking the adoption of a stream setback ordinance. Despite being asked to assume a conflict of interest exists to apply the "public generally" exception, not enough information was provided to determine if the criteria of the significant segment component of the "public generally" exception were met, or whether or not they would be affected in substantially the same manner.

Mario Biagi, Supervisor
Amador County Board of Supervisors

Dated: June 10, 2003

File Number I-03-010

A county supervisor who was also a wine grape grower did not have a disqualifying conflict of interest with respect to his business in relation to a decision regarding a proposed change to the county's winery ordinance that would allow on-site fresh food service in winery tasting room areas. This was because the income to or expenses of his business were affected more by external factors such as the cost of labor and over-production of grapes than the proposed change to the winery ordinance. However, the official was advised that he may have a disqualifying conflict of interest if the proposed change would have a reasonably foreseeable material financial effect on the winery with which he contracted to sell his grapes.

Jennifer K. McCain

City of Escondido

Dated: June 4, 2003

File Number I-03-021

A council member is presumed to have a conflict of interest in a decision to change the boundaries of a downtown business district, where the council member leases property in the district.

(Continued on page 30)

(Continued from page 29)

Brian M. Libow
City of San Pablo
Dated: June 4, 2003
File Number A-03-052

The "public generally" exception is applied to the conflict-of-interest rules in the context of a city council decision regarding a school and recreational facility project. The officials own property within 500 feet of the project sites.

Terence R. Boga
City of Seal Beach
Dated: June 4, 2003
File Number A-03-067

A city engineer and a city manager are each presumed to have a conflict of interest in decisions pertaining to a proposed development located within 500 feet of each official's real property. The officials are prohibited from participating in these decisions unless this presumption is rebutted or if an exception to the conflict of interest rules applies. The "significant segment" prong of the "public generally" analysis is specifically addressed. (Further discussion of the "public generally" analysis as it applies to the facts surrounding these decisions is included in a follow-up letter, *Boga Advice Letter No. A-03-067a.*)

Bart J. Thiltgen
City of Bakersfield
Dated: June 11, 2003
File Number I-03-070

A general discussion of the potential conflict-of-interest issues facing a member of a city council who is contemplating outside business relationships that would result in some city employees becoming sources of income to the official.

Richard E. Nosky
City of Salinas
Dated: June 18, 2003
File Number I-03-073

A city council member who is employed by a union to organize unrepresented workers was advised that he had a conflict of interest disqualifying him from participating in city council decisions concerning renewal or renegotiation of collective bargaining agreements between his union employer and employees of the city. He may also be

disqualified from participating in city council decisions to eliminate vacant city positions or concerning employee discipline/grievances, depending upon whether the decisions will have a reasonably foreseeable material financial effect upon his union employer. The advice concludes with a general description of the segmentation process, as it pertains to city council decisions.

Jonady Hom Sun
Public Utilities Commission
Dated: June 9, 2003
File Number A-03-079

The application of the "former employer" exception was found not to apply in this instance since the person in question was an independent contractor and not an employee. Also, it was determined that every "otherwise related business entity" would constitute an economic interest if even one met the \$500 source of income threshold, even though the amount received from each separate entity is not combined to attain this threshold amount for purposes of disqualification.

Mark R. Alexander
City of La Cañada-Flintridge
Dated: June 25, 2003
File Number A-03-081

Two members of a parks and recreation commission are prohibited from making, participating in making or influencing any governmental decisions that will reasonably and foreseeably have a material financial effect on any of their economic interests, including any decision that will have a material financial effect on their personal finances. Because the parks and recreation commission is a decision-making body, the commissioners' positions need to be "designated" within the city's conflict of interest code. The "legally required participation" exception may apply in cases where there is no alternative source of decision-making authority and the parks and recreation commission would be paralyzed without the participation of a disqualified commissioner. However, the exception does not apply when the disqualified official's vote is merely needed to break a tie or when a quorum can be convened of other members who are not disqualified.

(Continued on page 31)

(Continued from page 30)

Roy A. Hanley
City of Atascadero
Dated: June 4, 2003
File Number A-03-103

Where a council member owns property that is subject of a zoning decision, the effect of the decision is presumed not to be material, so long as: 1) the decision solely concerns the amendment of an existing zoning ordinance or other land use regulation (such as changes in the uses permitted, or development standards applicable, within a particular zoning category) which is applicable to all other properties designated in that category, and 2) there are no specific circumstances regarding the governmental decision, its financial effect, and the nature of the real property in which the public official has an economic interest, which make it reasonably foreseeable that the decision will have a material financial effect on the real property in which the public official has an interest.

Darren Bogié
County of San Benito
Dated: June 4, 2003
File Number A-03-105

The public official was advised that his adult child was not a member of the official's "immediate family" within the meaning of the Act, even though residing in the official's household. Section 82029 defines "immediate family" to exclude a child that is 18 years of age or older, even if a dependent for purposes of federal income tax. Thus, any financial effects of a governmental decision upon an adult child are not considered to be an effect upon the official or his immediate family, for purposes of identifying the existence of a conflict of interest.

The Honorable Deborah V. Ortiz
California Legislature
Dated: June 13, 2003
File Number G-03-106

General discussion of the applicability of the Act's conflict-of-interest provisions to advisory scientific review panels constituted to advise state agencies on matters regarding safe levels of contaminants in the environment.

Richard Rudnansky
City of Petaluma
Dated: June 6, 2003
File Number A-03-113

A council member with no outstanding campaign debts does not have a financial interest in decisions to amend the city's campaign finance ordinance.

Rick Cook
City of Santa Paula
Dated: June 11, 2003
File Number A-03-114

There is a presumption that a conflict of interest exists where the public official votes on a matter concerning a real estate development within 500 feet of that official's property.

Ralph L. Clark
Amador County Fair
Dated: June 12, 2003
File Number A-03-118

A public official does not have a conflict of interest if he or she is not making, participating in making or otherwise influencing a governmental decision. This is the case where the public official's duties are solely ministerial, secretarial, manual or clerical in nature.

Joanne Stonecipher
Bonita-Sunnyside Fire Protection District
Dated: June 20, 2003
File Number I-03-120

A public official may have a conflict of interest where he or she is both a local board member and an employee of an agency that contracts for services with that board.

Jack A. Sieglock
San Joaquin County Board of Supervisors
Dated: June 24, 2003
File Number I-03-125

A county supervisor employed by a home health care provider was advised that sources of income to his employer are not potentially disqualifying sources of income to him, since he does not have an ownership interest of 10% or greater in his employer. Thus, the supervisor may participate in votes concerning two hospitals that are sources of income to his employer, unless the decisions

(Continued on page 32)

(Continued from page 31)

will have a reasonably foreseeable material financial effect on his employer. The county supervisor was also advised of new regulation 18702.5 that describes the procedures certain public officials, including county supervisors, must follow if they have a conflict of interest disqualifying them from participating in a decision.

Conflict of Interest Code

Stephen Shane Stark
County of Santa Barbara
Dated: June 6, 2003
File Number: A-03-015

Under the detailed facts presented, Santa Barbara's community media access center does not meet the criteria set forth in the *Siegel* opinion and is not considered a local government agency under section 82041 of the Act.

Harry A. Krug
Air Quality Standards
Dated: June 30, 2003
File Number: G-03-133

A general discussion is contained in this letter on the petition rights of a designated employee under section 87307. Employees subject to a conflict of interest code may petition their agency to amend the code. If the agency declines or fails to act within 90 days, the employee may appeal to the code reviewing body within 30 days.

Gift Limits

Vanessa G. Rose
Teale Data Center
Dated: August 1, 2003
File Number A-03-151

Items donated as prizes for a charitable golf tournament do not confer any personal benefit on the designated employee collecting the items. Therefore, these items are not considered gifts to the designated employee. As long as the charitable golf tournament is open to staff, other state employees and members of the public, and raffle tickets may be purchased by all persons attend-

ing the event, it appears that the raffle would be a "bona fide competition." If so, the raffle prizes are not considered gifts, but income.

Helene Leichter
City of Morgan Hill
Dated: June 16, 2003
File Number A-03-064

Travel payments made to a council member from the Pew Charitable Trust but which were directed and controlled by Rutgers University are reportable as gifts from Rutgers but not subject to the gift limit provided they are governed by section 89506(b).

Honoraria

The Honorable Janet Kinter
San Diego Superior Court
Dated: June 3, 2003
File Number I-03-101

The Act does not prohibit a superior court judge from teaching a class in Canada. The stipend paid to the judge would be reportable. However, the provisions of the Act which limit honoraria and gifts do not apply to judges (although the provisions in the Code of Civil Procedure do set forth gift and honoraria rules for judges). Whether the travel and accommodations to the event are reportable as "gifts" or "income" depends on the specific facts of the event.

Lobbying

Allen Erenbaum
Office of the Governor
Dated: August 12, 2003
File Number A-03-124

A lobbying firm that contacts the Governor's office on behalf of its client for the purpose of encouraging the Governor to enter into a gaming compact with a federally recognized Indian tribe, or for encouraging the Governor to provide his concurrence for taking certain land into trust for gaming purposes on behalf of a federally recognized Indian tribe, would be engaging in a quasi-legislative proceeding under Government Code §

(Continued on page 33)

(Continued from page 32)

82002. This would constitute lobbying and would require the filing of a lobbying firm activity authorization form by the firm.

Mass Mailing

Neal Andrews
City of San Buenaventura
Dated: June 17, 2003
File Number A-03-100

The mass mailing provisions of the Act do not apply to a city council member listing his name and official title on a plaque of donors to be posted on a donor wall. There is not an "item sent" pursuant to regulation 18901(a)(1).

Revolving Door

James F. Bush
Department of Education
Dated: August 21, 2003
File Number A-03-129

This advice goes to two formerly designated employees of a state agency. Both the permanent and one-year bans are applicable to them. Under the permanent ban, neither can represent any new employer before any court or state administrative agency, nor any officer, nor employee thereof, in any judicial, quasi-judicial or other proceeding that they participated in as a state employee. Additionally, the one-year ban prohibits them from representing any new employer before their former state agency for the purposes of influencing administrative, legislative, or other specified action for one year.

Loy Holder
Health & Human Services Data Center
Dated: August 6, 2003
File Number A-03-168

A retired senior information systems analyst formerly serving at the Health and Human Services Data Center sought advice as to whether the post-employment provisions of the Act would prohibit her from accepting an assignment by a new private employer/contractor, to perform work at the Health and Human Services Data Center

similar to that she performed while in state service. Since the work will be performed to implement the terms of an "existing contract," this is an exception to the one-year ban on communicating with or appearing before her former agency employer. The permanent ban does not apply since she was not involved as a state employee during the performance of this new contract.

Penny Nakatsu
San Francisco Redevelopment Agency
Dated: July 11, 2003
File Number A-03-109

The revolving doors provisions of the Act do not apply to local officials. Therefore, a former member of a project area committee is not subject to the revolving doors provisions of the Act.

Kathy Lanz-Haupt
Franchise Tax Board
Dated: July 24, 2003
File Number A-03-149

A former state administrative agency official was advised that the one year ban does not prohibit her, as a private consultant, from accepting an assignment to her former state administrative agency employer in order to implement an existing contract. Since she did not work on the implementation phase of this contract while a state employee, but only on the design and requirements pre-contracting phase, the permanent ban does not apply to her involvement, as a private consultant, in the implementation phase of the contract which is a separate proceeding.

Laurin H. Mills
Superintendent of Public Instruction
Dated: June 2, 2003
File Number A-03-071

A former Superintendent of Public Instruction was advised that because under section 87406(c), she was only precluded from contacting or appearing before "state administrative agencies," the one-year ban under the Act's post-employment provisions did not preclude her from contacting local California school districts about joining the organization with which she was now affiliated. Local California school districts are not state agencies, but are, rather, local agencies, and the revolving

(Continued on page 34)

Lobbyist Ethics Course Scheduled; Lobbyists Reminded Not to Miss Course Deadline

The legislative ethics committees have announced the scheduling of a lobbyist ethics course to be conducted in Sacramento on March 5, 2004, from 1:30 to 3:30 p.m. The location is to be announced.

Know Your Deadline!

Any lobbyist who has not completed the ethics course requirement for the 2003-2004 legislative session remains "conditionally registered" with a specified deadline to complete the ethics requirements. **If your ethics deadline occurs before mid-November 2004, you must take the March 5, 2004, course to prevent revocation of your "conditional registration."**

At the deadline, any lobbyist who has not completed the ethics course and filed the required amendment to Form 604 certifying an ethics completion date, must cease lobbying activity immediately, is prohibited from acting as a lobbyist in California until the course and filing requirements are met, and may be subject to criminal penalties and substantial fines.

THERE IS NO PROVISION FOR A WAIVER OF A LOBBYIST'S ETHICS COURSE REQUIREMENT OR FOR EXTENSION OF A LOBBYIST'S DEADLINE TO FILE THE REQUIRED AMENDED FPPC FORM 604, CERTIFYING THE ETHICS COURSE COMPLETION DATE.

Contact the Senate Committee on Legislative Ethics (Jeanie Myers) at (916) 324-6929, to obtain a sign-up form for the March 5th course or to verify your ethics date.

If you have completed the course but are unsure whether you remembered to "certify" for the current legislative session by filing the required amendment to your Form 604, you can look on the Secretary of State's web site:

<http://www.ss.ca.gov>

At the web site, go to the directory of individual lobbyists. Review your picture page for 2003-2004. If no ethics course date is shown on your (the lobbyist's) picture page, then you must file an amended Form 604 certifying the date that you completed the ethics course.

...Advice summaries

(Continued from page 33)

door restrictions of section 87406(c) are not applicable.

Kathryn E. Donovan
California Educational Facilities Authority
Dated: June 17, 2003
File Number I-03-119

For purposes of analysis under the Act's post-employment restrictions on former state officials, this letter assumes that the official had participated in certain proceedings as a government official, and offers guidance in determining when a subsequent proceeding becomes a "new" proceeding no longer within the scope of the Act's permanent ban. (§§ 87401-87402.)

Statement of Economic Interests

Richard Cromwell
SunLine Transit Agency
Dated: August 14, 2003
File Number I-03-162

Certain travel payments made by a private sector organization for a public official to attend the organization's meetings must be reported on the official's statement of economic interests. The payments for travel may be considered "income," and not a "gift" for reporting purposes, if the official benefiting has provided equal or greater consideration to the person making the payments.

